

1 THE HONORABLE ROBERT J. BRYAN
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 THE CITY OF TACOMA, a municipal
11 corporation,

12 Plaintiff,

13 v.

14 GREAT AMERICAN INSURANCE
15 COMPANIES, an Ohio corporation, et al.,

16 Defendants.

17 NO. C97-5504 RJB

18 STIPULATED PROTECTIVE ORDER

19 The parties to this action stipulate to the following Protective Order to apply to certain
20 documents and information generated in the Thea Foss Arbitration as more particularly
21 described below.

22 PROCEDURES AND DEFINITIONS

23 1. Confidential Information and Reasons for Confidentiality

24 For purposes of this Order, "Confidential Information" means all information or
25 documents relating to the signatories of Thea Foss Arbitration Agreement that was submitted
26 by or to the arbitrators of the "Thea Foss Arbitration" other than those documents or portions
of documents relating solely to the City of Tacoma. The "Thea Foss Arbitration" is that claim
resolution process created by the Thea Foss Arbitration Agreement dated April 1, 1998, as

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(C97-5504 RJB)
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1 amended. The confidentiality of all Confidential Information shall be maintained by the
 2 parties herein, and such information shall not be disclosed except as set forth in ¶2 below.
 3 “Confidential Information” does not include matters of public record, however, and
 4 information otherwise obtained by the parties in this case by investigation or discovery does
 5 not become confidential solely because it was submitted in the Thea Foss Arbitration.

6 The confidentiality of the information or documents that are the subject of this
 7 Protective Order shall be maintained because the confidential nature of the arbitration and
 8 mediation process conducted pursuant to the Thea Foss Arbitration Agreement was a material
 9 factor in the decision of the signatories to participate in the “Thea Foss Arbitration,” and
 10 maintaining the confidentiality of the documents and information generated in the “Thea Foss
 11 Arbitration” furthers the public interest served by encouraging the parties to participate in
 12 arbitrations and mediation of complex, contested claims such as those addressed by the Thea
 13 Foss Arbitration.

14 2. Access to Confidential Information

15 Confidential Information will not be disclosed to or used by anyone except the
 16 following persons, and will be disclosed to or used by these persons solely for purposes of
 17 this litigation:

- 18 a. The Parties and their officers, directors, employees and representatives who
 19 have need for such information for purposes of this litigation;
- 20 b. Outside counsel for the parties and their employees necessarily involved in the
 21 conduct of this litigation;
- 22 c. Experts and consultants retained by any of the Parties who have a need for
 23 such information to assist in this litigation; and
- 24 d. During deposition or trial, to any deposition or trial witness where necessary to
 25 the testimony of such witness.

1 3. Notice of Order

2 Prior to receiving, being shown or using Confidential Information, persons falling in
3 the categories listed above shall be shown a copy of this Stipulated Protective Order, and shall
4 agree in writing, or verbally on the record during deposition or trial, to be bound by its terms.

5 4. Use at Depositions

6 Disclosure of Confidential Information to any witness, and testimony by any witness
7 at a deposition relating to Confidential Information, shall not constitute a waiver of
8 confidentiality. That portion of a deposition which contains any questions or answers
9 regarding Confidential Information, or any deposition exhibit containing Confidential
10 Information, shall be designated as Confidential Information subject to this Order. Under such
11 circumstances, the witness shall be asked to sign the original deposition transcript in the
12 presence of the court reporter, and no copy of the transcript or related exhibits shall be given
13 to the deponent.

14 5. Filing Under Seal

15 All documents filed with the Court that contain Confidential Information as described
16 in ¶1 shall be filed under seal, with the filing party responsible for arranging with the Court
17 Clerk the procedures acceptable to the Clerk's office and sufficient to maintain the
18 confidentiality of the documents which are the subject of this Order.

19 6. Return of Documents

20 Upon completion of this litigation, and if requested by the producing party, the
21 original and all copies of all documents produced during discovery, all interrogatory answers,
22 and all deposition transcripts containing Confidential Information shall be returned to counsel
23 for the producing party or destroyed, with the non-producing parties to provide to counsel for
24 the producing party a certificate reflecting such disposition.

1 7. Application to Court

2 This Stipulated Protective Order is without prejudice to the right of any interested
3 party to apply to the Court for an Order permitting the disclosure of any Confidential
4 Information or to apply for an Order modifying or limiting this Stipulated Protective Order in
5 any respect. Such application shall be by motion with not less than two weeks notice of the
6 motion. In any event, the Court herein may change the terms of this Protective Order after
7 notice to the parties and an opportunity to be heard.

8 DATED this 14th day of April, 2005.

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11 Robert J. Bryan
12 United States District Judge

13
14 ***Stipulated and agreed to by:***

15 / s / Timothy J. Whitters

16 Timothy J. Whitters, WSBA No. 08660

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18 Bradley A. Maxa, WSBA No. 15198

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20 GORDON, THOMAS, HONEYWELL,

21 MALANCA, PETERSON & DAHEIM LLP

22 Attorneys for Plaintiff

23
24 ***Approved as to form by:***

25 / s / per telephonic agreement

26 David E. Prange, WSBA No. 32651

27 ABBOT & PRANGE, P.C.

28 Attorneys for Defendant Great American

29 Insurance Group:

30 / s / per telephonic agreement

31 R. Lind Stapley, WSBA No. 19512

32 SOHA & LANG P.S.

33 Attorneys for Defendants Central National

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35 STIPULATED PROTECTIVE ORDER - 4 of 6

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1 Insurance Company, Highlands Insurance
2 Company and Indemnity Insurance Company
3 of North America:
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STIPULATED PROTECTIVE ORDER - 5 of 6
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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 13th day of April, 2005, I electronically filed the foregoing Stipulated Protective Order with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys participating in the CM/ECF system, and I hereby certify that I deposited postage-prepaid courtesy copies with the United States Postal Service directed to all participants as follows:

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Insurance Group:**

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/ s / Lyndsay C. Taylor

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